

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 164 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PATEL MEENABEN AMTHABHAI

Versus

PATAN MUNICIPALITY

Appearance:

MR RC JANI for Petitioner

MS HARSHA DEVANI ADDL.GOV'T. PLEADER for respondent
no.4- State.

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 17/01/97

ORAL JUDGEMENT

Learned counsel for the petitioner seeks permission to delete respondents nos. 1,2,3 and 5 from petition. Permission as prayed for is granted.

2. Rule.Ms.Harsha Devani, learned Asstt. Govt. Pleader waives service of notice of Rule on behalf of respondent no.4- State of Gujarat. At the request of learned counsel for the parties, petition is heard today.

3. By means of filing this petition under Art. 226 of Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ, order or direction to quash and set aside the action of respondent no.1 Patan Municipality to construct Pumping Station on the land bearing Survey No. 1038 belonging to the petitioner which is situated in city of Patan.

4. From the averments made in the petition and more particularly contents of representation dt. January 4, 1997 made by the petitioner to the State Government, it is evident that land admeasuring 384 sq.mts., out of Survey No. 1038 is acquired by the State Government for the purpose of installing Pumping Station. The petitioner has made representation dt. January 4, 1997 to the State Government to exercise its powers under Sec.48 of the Land Acquisition Act, 1894 and withdraw the acquisition.

5. Having regard to the facts of the case, prayer made in the petition cannot be granted at this stage. On the facts and in the circumstances of the case, I am of the opinion that interest of justice would be served, if respondent no.4 is directed to consider the representation dt. January 4, 1997 within stipulated time.

6. For the foregoing reasons, petition partly succeeds. Respondent no.4 is directed to consider the representation dt. January 4, 1997 made by the petitioner as early as possible and preferably within two months from today. The office is directed to send writ to the respondent no.4 immediately. It will also be open to the petitioner to produce copy of this order before the respondent no.4 for necessary compliance. Rule is made absolute accordingly with no order as to costs.
